

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

JOSEPH GERHART et al

PLAINTIFFS

v.

CAUSE NO. 3:11cv586-HTW-LRA

RANKIN COUNTY MISSISSIPPI, et al

DEFENDANTS

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RENEWED MOTION FOR SUMMARY JUDGMENT

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**NOW COME** Defendants, Rankin County, Mississippi, former-Sheriff Ronnie Pennington, in his official capacity, and Deputy Brett McAlpin, in his individual and official capacities, (collectively “the Rankin County Defendants”) by and through their counsel of record, and renew their [162] Motion for Partial Summary Judgment, [163] Memorandum of Authorities, [171] Motion for Summary Judgment, [172] Memorandum of Authorities, [223] Supplemental Motion for Summary Judgment, and [224] Memorandum of Authorities by stating as follows:

1. As a result of this Court’s [234] Order and the Fifth Circuit decision of *Gerhart v. Barnes*, 724 F. App’x 316 (5th Cir. 2018), all of Plaintiffs’ claims against all Rankin County Defendants were dismissed with prejudice except Plaintiffs’ claims for “Fifth Amendment violations under 42 U.S.C. § 1983 for unlawful entry; Excessive Force violations under 42 U.S.C. § 1983; and Reckless Infliction of Emotional Distress” against Brett McAlpin, in his individual capacity.

2. Plaintiffs filed their [260] Fourth Amended Complaint on September 10, 2018, re-asserting all previously dismissed claims against all Rankin County Defendants.

3. Pursuant to this Court's [234] Order and the Fifth Circuit decision of *Gerhart v. Barnes*, 724 F. App'x 316 (5th Cir. 2018), the Rankin County Defendants respectfully request that a Rule 56 judgment be re-entered in their favor and that any and all claims against them in Plaintiffs' [260] Fourth Amended Complaint, except Plaintiffs' claims for "Fifth Amendment violations under 42 U.S.C. § 1983 for unlawful entry; Excessive Force violations under 42 U.S.C. § 1983; and Reckless Infliction of Emotional Distress" against Brett McAlpin, in his individual capacity, be dismissed with prejudice.

4. As to the remaining "Fifth Amendment violations under 42 U.S.C. § 1983 for unlawful entry; Excessive Force violations under 42 U.S.C. § 1983; and Reckless Infliction of Emotional Distress" against Brett McAlpin, in his individual capacity, this Defendant re-asserts, re-alleges and incorporates herein any and all arguments, legal precedent, analysis and/or requests for relief in his [162] Motion for Partial Summary Judgment, [163] Memorandum of Authorities, [171] Motion for Summary Judgment, [172] Memorandum of Authorities, [223] Supplemental Motion for Summary Judgment, and [224] Memorandum of Authorities, with exhibits to all.

5. Premised on all legal precedent and analysis in their accompanying Memorandum of Authorities, as well as all legal precedent and analysis in their [162] Motion for Partial Summary Judgment, [163] Memorandum of Authorities, [171] Motion for Summary Judgment, [172] Memorandum of Authorities, [223] Supplemental Motion for Summary Judgment, and [224] Memorandum of Authorities, the Rankin County Defendants respectfully request that any and all claims against them be dismissed with prejudice.

**WHEREFORE, PREMISES CONSIDERED**, Rankin County, Mississippi, former-Sheriff Ronnie Pennington, in his official capacity, and Deputy Brett McAlpin, in his individual and

official capacities, pray that this Court grant them summary judgment and dismiss any and all claims against them with prejudice.

**RESPECTFULLY SUBMITTED**, this 20<sup>th</sup> day of September, 2018.

**RANKIN COUNTY, MISSISSIPPI, SHERIFF  
RONNIE PENNINGTON, IN HIS OFFICIAL  
CAPACITY, AND DEPUTY BRETT MCALPIN, IN  
HIS OFFICIAL AND INDIVIDUAL CAPACITIES -  
DEFENDANTS**

**BY:** */s/ Jason E. Dare*  
**JASON E. DARE**

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**CERTIFICATE OF SERVICE**

I, JASON E. DARE, hereby certify that on this day, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent a true and correct copy of the pleading to all counsel of record, including the following:

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**THIS**, the 20<sup>th</sup> day of September, 2018.

*/s/ Jason E. Dare* \_\_\_\_\_  
**JASON E. DARE**